

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

WILLIAM STEFANIAK and
JANICE STEFANIAK,
Plaintiffs,

CIVIL ACTION
NO: 05-11465-MLW

vs.

VOYAGER III, LLC., WATER
TRANSPORTATION ALTERNATIVES, INC.,
NEW ENGLAND AQUARIUM CORPORATION, and
NEW ENGLAND AQUARIUM MARINE LIFE
CENTER, INC.,
Defendants.

DEFENDANTS', VOYAGER III, LLC., WATER TRANSPORTATION
ALTERNATIVES, INC., NEW ENGLAND AQUARIUM CORPORATION, and
NEW ENGLAND AQUARIUM MARINE LIFE CENTER, INC. ANSWERS TO
PLAINTIFF'S COMPLAINT AND DEMAND FOR JURY TRIAL

Now come the defendants, Voyager III, LLC., Water Transportation Alternatives, Inc., New England Aquarium Corporation, and New England Aquarium Marine Life Center, Inc. in the above-entitled action, by and through their undersigned counsel, Clinton & Muzyka, P.C., and respond to the allegations contained in Plaintiff's Complaint and Demand for Jury Trial as follows.

INTRODUCTION

1. The defendants are not required to respond to Paragraph No. 1, which is an introductory paragraph not containing any specific factual allegations

against the answering defendants, however and to the extent that a response is required, the defendants deny all the allegations contained therein.

JURISDICTION & VENUE

2. The defendants admit the allegations contained in Paragraph No. 2.
3. The defendants admit the allegations contained in Paragraph No. 3.

PARTIES

4. The defendants lack the personal knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph No. 4 and therefore, deny same.
5. The defendants lack the personal knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph No. 5 and, therefore deny same.
6. The defendants admit that Voyager III, LLC is a domestic limited liability company which owned the M/V VOYAGER III on July 14, 2004. The defendants deny the remaining allegations contained in Paragraph No. 6.
7. The defendants admit that Water Transportation Alternatives, Inc. is a Delaware corporation with a

principal place of business at 116 E. Howard Street, Quincy, Massachusetts and that it managed, operated, and controlled the M/V VOYAGER III on July 14, 2004. The defendants deny the remaining allegations contained in Paragraph No. 7.

8. The defendants admit that New England Aquarium Corporation is a domestic non-profit organization, but deny the remaining allegations contained in Paragraph No. 8.
9. The defendants admit that New England Aquarium Marine Life Center, Inc. is a domestic non-profit organization, but deny the remaining allegations contained in Paragraph No. 9.

FACTUAL ALLEGATIONS

10. The defendants admit that the plaintiff, William Stefaniak, was onboard the M/V VOYAGER III on July 14, 2004, but deny and/or lack the personal knowledge sufficient to form a belief as to the truth of the remaining allegations contained in Paragraph No. 10 and, therefore, deny same.

COUNT I

William Stefaniak v. Voyager III, LLC.
(General Maritime Law - Negligence)

11. The defendants reiterate and reaffirm their answers to the allegations set forth in Paragraph Nos. 1

through 10 inclusive and incorporate same as if fully set forth herein.

12. The defendants deny the allegations contained in Paragraph No. 12.

13. The defendants lack the personal knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph No. 13 and, therefore, deny same.

14. Paragraph No. 14 contains a legal allegation not requiring an answer on behalf of the defendants, but to the extent that a response is required, the defendants deny the allegations contained therein.

REQUEST FOR RELIEF

15. The defendants are not required to respond to Paragraph No. 15 because it does not contain any factual allegations, however and to the extent that a response is required, the defendants deny that the Court should enter Judgment in favor of the plaintiff.

16. The defendants are not required to respond to Paragraph No. 16 because it does not contain any factual allegations, however and to the extent that a response is required, the defendants deny that the plaintiff is entitled to any relief.

WHEREFORE, the defendants pray that this Honorable Court dismiss with prejudice Count I together with reasonable attorney's fees and costs.

COUNT II
William Stefaniak v. Water Transportation Alternatives,
Inc.
(General Maritime Law - Negligence)

17. The defendants reiterate and reaffirm their answers to the allegations set forth in Paragraph Nos. 1 through 16 inclusive and incorporate same as if fully set forth herein.
18. The defendants deny the allegations contained in Paragraph No. 18.
19. The defendants lack the personal knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph No. 19 and therefore, deny same.
20. Paragraph No. 20 contains a legal allegation not requiring an answer on behalf of the defendants, but to the extent that a response is required, the defendants deny the allegations contained therein.

REQUEST FOR RELIEF

21. The defendants are not required to respond to Paragraph No. 21 because it does not contain any

factual allegations, however and to the extent that a response is required, the defendants deny that the Court should enter Judgment in favor of the plaintiff.

22. The defendants are not required to respond to Paragraph No. 22 because it does not contain any factual allegations, however and to the extent that a response is required, the defendants deny that the plaintiff is entitled to any relief.

WHEREFORE, the defendants pray that this Honorable Court dismiss with prejudice Count II together with reasonable attorney's fees and costs.

COUNT III
William Stefaniak v. New England Aquarium Corporation
(General Maritime Law - Negligence)

23. The defendants reiterate and reaffirm their answers to the allegations set forth in Paragraph Nos. 1 through 22 inclusive and incorporate same as if fully set forth herein.
24. The defendants deny the allegations contained in Paragraph No. 24.
25. The defendants lack the personal knowledge sufficient to form a belief as to the truth of the allegations

contained in Paragraph No. 25 and therefore, deny same.

26. Paragraph No. 26 contains a legal allegation not requiring an answer on behalf of the defendants, but to the extent that a response is required, the defendants deny the allegations contained therein.

REQUEST FOR RELIEF

27. The defendants are not required to respond to Paragraph No. 27 because it does not contain any factual allegations, however and to the extent that a response is required, the defendants deny that the Court should enter Judgment in favor of the plaintiff.
28. The defendants are not required to respond to Paragraph No. 28 because it does not contain any factual allegations, however and to the extent that a response is required, the defendants deny that the plaintiff is entitled to any relief.

WHEREFORE, the defendants pray that this Honorable Court dismiss with prejudice Count III together with reasonable attorney's fees and costs.

COUNT IV
William Stefaniak v. New England Aquarium Marine Life
Center, Inc.
(General Maritime Law - Negligence)

29. The defendants reiterate and reaffirm their answers to the allegations set forth in Paragraph Nos. 1 through 28 inclusive and incorporate same as if fully set forth herein.
30. The defendants deny the allegations contained in Paragraph No. 30.
31. The defendants lack the personal knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph No. 31 and therefore, deny same.
32. Paragraph No. 32 contains a legal allegation not requiring an answer on behalf of the defendants, but to the extent that a response is required, the defendants deny the allegations contained therein.

REQUEST FOR RELIEF

33. The defendants are not required to respond to Paragraph No. 33 because it does not contain any factual allegations, however and to the extent that a response is required, the defendants deny that the Court should enter Judgment in favor of the plaintiff.

34. The defendants are not required to respond to Paragraph No. 34 because it does not contain any factual allegations, however and to the extent that a response is required, the defendants deny that the plaintiff is entitled to any relief.

WHEREFORE, the defendants pray that this Honorable Court dismiss with prejudice Count IV together with reasonable attorney's fees and costs.

COUNT V

Janice Stefaniak v. Voyager III, LLC
(General Maritime Law - Loss of Consortium)

35. The defendants reiterate and reaffirm their answers to the allegations set forth in Paragraph Nos. 1 through 34 inclusive and incorporate same as if fully set forth herein.

36. The defendants lack the personal knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph No. 36 and therefore, deny same.

37. The defendants lack the personal knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph No. 37 and therefore, deny same.

38. Paragraph No. 38 contains a legal allegation not requiring an answer on behalf of the defendants, but to the extent that a response is required, the defendants deny the allegations contained therein.

REQUEST FOR RELIEF

39. The defendants are not required to respond to Paragraph No. 39 because it does not contain any factual allegations, however and to the extent that a response is required, the defendants deny that the Court should enter Judgment in favor of the plaintiff.

40. The defendants are not required to respond to Paragraph No. 40 because it does not contain any factual allegations, however and to the extent that a response is required, the defendants deny that the plaintiff is entitled to any relief.

WHEREFORE, the defendants pray that this Honorable Court dismiss with prejudice Count V together with reasonable attorney's fees and costs.

COUNT VI
Janice Stefaniak v. Water Transportation Alternatives,
Inc.
(General Maritime Law - Loss of Consortium)

41. The defendants reiterate and reaffirm their answers to the allegations set forth in Paragraph Nos. 1 through 40 inclusive and incorporate same as if fully set forth herein.
42. The defendants lack the personal knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph No. 42 and therefore, deny same.
43. The defendants lack the personal knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph No. 43 and therefore, deny same.
44. Paragraph No. 44 contains a legal allegation not requiring an answer on behalf of the defendants, but to the extent that a response is required, the defendants deny the allegations contained therein.

REQUEST FOR RELIEF

45. The defendants are not required to respond to Paragraph No. 45 because it does not contain any factual allegations, however and to the extent that a response is required, the defendants deny that the

Court should enter Judgment in favor of the plaintiff.

46. The defendants are not required to respond to Paragraph No. 46 because it does not contain any factual allegations, however and to the extent that a response is required, the defendants deny that the plaintiff is entitled to any relief.

WHEREFORE, the defendants pray that this Honorable Court dismiss with prejudice Count VI together with reasonable attorney's fees and costs.

COUNT VII

Janice Stefaniak v. New England Aquarium Corporation
(General Maritime Law - Loss of Consortium)

47. The defendants reiterate and reaffirm their answers to the allegations set forth in Paragraph Nos. 1 through 46 inclusive and incorporate same as if fully set forth herein.
48. The defendants lack the personal knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph No. 48 and therefore, deny same.
49. The defendants lack the personal knowledge sufficient to form a belief as to the truth of the allegations

contained in Paragraph No. 49 and therefore, deny same.

50. Paragraph No. 50 contains a legal allegation not requiring an answer on behalf of the defendants, but to the extent that a response is required, the defendants deny the allegations contained therein.

REQUEST FOR RELIEF

51. The defendants are not required to respond to Paragraph No. 51 because it does not contain any factual allegations, however and to the extent that a response is required, the defendants deny that the Court should enter Judgment in favor of the plaintiff.
52. The defendants are not required to respond to Paragraph No. 52 because it does not contain any factual allegations, however and to the extent that a response is required, the defendants deny that the plaintiff is entitled to any relief.

WHEREFORE, the defendants pray that this Honorable Court dismiss with prejudice Count VII together with reasonable attorney's fees and costs.

COUNT VIII
Janice Stefaniak v. New England Aquarium Marine Life
Center, Inc.
(General Maritime Law - Loss of Consortium)

53. The defendants reiterate and reaffirm their answers to the allegations set forth in Paragraph Nos. 1 through 52 inclusive and incorporate same as if fully set forth herein.
54. The defendants lack the personal knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph No. 54 and therefore, deny same.
55. The defendants lack the personal knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph No. 55 and therefore, deny same.
56. Paragraph No. 56 contains a legal allegation not requiring an answer on behalf of the defendants, but to the extent that a response is required, the defendants deny the allegations contained therein.

REQUEST FOR RELIEF

57. The defendants are not required to respond to Paragraph No. 57 because it does not contain any factual allegations, however and to the extent that a response is required, the defendants deny that the

Court should enter Judgment in favor of the plaintiff.

58. The defendants are not required to respond to Paragraph No. 58 because it does not contain any factual allegations, however and to the extent that a response is required, the defendants deny that the plaintiff is entitled to any relief.

WHEREFORE, the defendants pray that this Honorable Court dismiss with prejudice Count VIII together with reasonable attorney's fees and costs.

COUNT IX

William Stefaniak v. Voyager III, LLC.
(General Maritime Law - Punitive Damages)

59. The defendant reiterates and reaffirms its answers to the allegations set forth in Paragraph Nos. 1 through 58 inclusive and incorporate same as if fully set forth herein.

60. The defendants deny the allegations contained in Paragraph No. 60.

61. Paragraph No. 61 contains a legal allegation not requiring an answer on behalf of the defendants, but to the extent that a response is required, the defendants deny the allegations contained therein.

REQUEST FOR RELIEF

62. The defendants are not required to respond to Paragraph No. 62 because it does not contain any factual allegations, however and to the extent that a response is required, the defendants deny that the Court should enter Judgment in favor of the plaintiff.

63. The defendants are not required to respond to Paragraph No. 63 because it does not contain any factual allegations, however and to the extent that a response is required, the defendants deny that the plaintiff is entitled to any relief.

WHEREFORE, the defendants pray that this Honorable Court dismiss with prejudice Count IX together with reasonable attorney's fees and costs.

COUNT X

William Stefaniak v. Water Transportation Alternatives, Inc.

(General Maritime Law - Punitive Damages)

64. The defendants reiterate and reaffirm their answers to the allegations set forth in Paragraph Nos. 1 through 63 inclusive and incorporate same as if fully set forth herein.

65. The defendants deny the allegations contained in Paragraph No. 65.

66. Paragraph No. 66 contains a legal allegation not requiring an answer on behalf of the defendants, but to the extent that a response is required, the defendants deny the allegations contained therein.

REQUEST FOR RELIEF

67. The defendants are not required to respond to Paragraph No. 67 because it does not contain any factual allegations, however and to the extent that a response is required, the defendants deny that the Court should enter Judgment in favor of the plaintiff.

68. The defendants are not required to respond to Paragraph No. 68 because it does not contain any factual allegations, however and to the extent that a response is required, the defendants deny that the plaintiff is entitled to any relief.

WHEREFORE, the defendants pray that this Honorable Court dismiss with prejudice Count X together with reasonable attorney's fees and costs.

COUNT XI

William Stefaniak v. New England Aquarium Corporation
(General Maritime Law - Punitive Damages)

69. The defendants reiterate and reaffirm their answers to the allegations set forth in Paragraph Nos. 1 through 68 inclusive and incorporate same as if fully set forth herein.
70. The defendants deny the allegations contained in Paragraph No. 70.
71. Paragraph No. 71 contains a legal allegation not requiring an answer on behalf of the defendants, but to the extent that a response is required, the defendants deny the allegations contained therein.

REQUEST FOR RELIEF

72. The defendants are not required to respond to Paragraph No. 72 because it does not contain any factual allegations, however and to the extent that a response is required, the defendants deny that the Court should enter Judgment in favor of the plaintiff.
73. The defendants are not required to respond to Paragraph No. 73 because it does not contain any factual allegations, however and to the extent that a response is required, the defendants deny that the plaintiff is entitled to any relief.

WHEREFORE, the defendants pray that this Honorable Court dismiss with prejudice Count XI together with reasonable attorney's fees and costs.

COUNT XII
William Stefaniak v. New England Aquarium Marine Life
Center, Inc.
(General Maritime Law - Punitive Damages)

74. The defendants reiterate and reaffirm their answers to the allegations set forth in Paragraph Nos. 1 through 73 inclusive and incorporate same as if fully set forth herein.
75. The defendants deny the allegations contained in Paragraph No. 75.
76. Paragraph No. 76 contains a legal allegation not requiring an answer on behalf of the defendants, but to the extent that a response is required, the defendants deny the allegations contained therein.

REQUEST FOR RELIEF

77. The defendants are not required to respond to Paragraph No. 77 because it does not contain any factual allegations, however and to the extent that a response is required, the defendants deny that the Court should enter Judgment in favor of the plaintiff.

78. The defendants are not required to respond to Paragraph No. 78 because it does not contain any factual allegations, however and to the extent that a response is required, the defendants deny that the plaintiff is entitled to any relief.

WHEREFORE, the defendants pray that this Honorable Court dismiss with prejudice Count XII together with reasonable attorney's fees and costs.

AFFIRMATIVE DEFENSES

The defendants incorporate the following Affirmative Defenses into their Answer to plaintiff's Complaint and Demand for Jury Trial as follows:

AND FURTHER ANSWERING, AND AS A COMPLETE AND SEPARATE DEFENSE, the defendants state that Counts III, IV, VII, VIII, XI, and XII of plaintiff's Complaint and Demand for Jury Trial should properly be dismissed because they fail to state a cause of action upon which relief can be granted against the named defendants.

AND FURTHER ANSWERING, AND AS A COMPLETE AND SEPARATE DEFENSE, the defendants state that if Counts III, IV, VII, VIII, XI, and XII of plaintiff's Complaint and Demand for Jury Trial are not dismissed for failing to state a cause of action upon which relief can be granted, then any award

against the named charitable organizations should properly be limited and capped to \$20,000.00 pursuant to MGL c. 231, § 85K.

AND FURTHER ANSWERING, AND AS A COMPLETE AND SEPARATE DEFENSE, the defendants state that this Complaint is premised upon the Admiralty jurisdiction of this Honorable Court and the plaintiffs are not entitled to a trial by jury.

AND FURTHER ANSWERING, AND AS A COMPLETE AND SEPARATE DEFENSE, the defendants state that there has been insufficiency of process and service of process.

AND FURTHER ANSWERING, AND AS A COMPLETE AND SEPARATE DEFENSE, the defendants state that the damages allegedly sustained by the plaintiff resulted in whole or in part from his own negligence and failure to exercise the degree of care and skill reasonably required of an adult of his experience and not due to any negligence or fault on the part of the defendants.

AND FURTHER ANSWERING, AND AS A COMPLETE AND SEPARATE DEFENSE, the defendants state that the injuries allegedly sustained by the plaintiff resulted in whole or in part from an Act of God, or a condition not created by the defendants, their employees, servants, or agents.

AND FURTHER ANSWERING, AND AS A COMPLETE AND SEPARATE DEFENSE, the defendants state that the injuries allegedly sustained by the plaintiff resulted in whole or in part from the acts or omissions of a person or persons over whom the defendants had no control and for whom the defendants was and is not legally responsible.

AND FURTHER ANSWERING, AND AS A COMPLETE AND SEPARATE DEFENSE, the defendant states that Counts V, VI, IX and X of plaintiff's Complaint and Demand for Jury Trial should properly be dismissed because they are not recognized causes of actions under the General Maritime Law.

AND FURTHER ANSWERING, AND AS A COMPLETE AND SEPARATE DEFENSE, the defendants state that if the plaintiff was injured as alleged, which is specifically denied, such injury was without fault, knowledge or privity of the defendants; and that the damaged claimed herein exceeds the value of the vessel, including its pending cargo; and the defendant herewith claims benefit of any and all laws and statutes of the United States of America, or and concerning limitation of liability of the defendant, 46 U.S.C.S. Appx. §183(b).

WHEREFORE, the defendants pray that this Honorable Court dismiss with prejudice plaintiff's Complaint and

Demand for Jury Trial together with reasonable attorney's fees and costs.

By their attorneys,

CLINTON & MUZYKA, P.C.

"/S/Thomas J. Muzyka"__

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